



A M E N D E D
FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD

APPELLANT: Michael Fazio
DOCKET NO.: 05-25896.001-R-1 through 05-25896.002-R-1
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Michael Fazio, the appellant, by attorney Lisa A. Marino, of Marino & Associates, PC in Chicago; and the Cook County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the Cook County Board of Review is warranted. The correct assessed valuation of the property is:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
05-25896.001-R-1	12-24-324-026-0000	4,307	25,118	\$29,425
05-25896.002-R-1	12-24-324-027-0000	3,243	24,487	\$27,730

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of two land parcels containing 6,286 square feet of land. The parcels are improved with a masonry, mixed-used building with two residential units and four commercial units. The building contains 6,500 square feet of building area.

As to the merits of this appeal, the appellant's attorney argued that the fair market value of the subject is not accurately reflected in its assessed value as the basis for this appeal.

The appellant's pleadings include recent sale data reflecting that the subject property is located in Chicago and that it sold on November 17, 2004 for \$585,000. The disclosure statement also indicated that the sale of this residence was not a transfer between related parties. Further, the appellant's attorney submitted a copy of the recorded sale from the Cook County Recorder of Deeds office. In support, the appellant submitted a

copy of the sale's settlement statement affirming the aforementioned data.

The appellant's brief also raises two ancillary issues. The brief includes an actual income and expense analysis developed by the appellant's attorney, while employing 2005 data from an attached, hand-written summary income and expense document for the subject's building. Further, the appellant's brief argues that the subject should be accorded a vacancy proration. In support of this assertion, the appellant submitted a copy of a general affidavit wherein the affiant, Michael Fazio, asserts that he is the owner of the property and that the property was 14% vacant during the 2005 tax year. Based on this evidence, the appellant requested a reduction in the subject's improvement assessment.

At hearing, the appellant's attorney indicated that the subject property comprises one mixed-use building, while also confirming that the income and expense analysis was not based upon any market data.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment was disclosed as \$63,840. As to the subject, the board of review submitted copies of property characteristic printouts for the subject. The printouts indicate that two improvements were on the subject property without further explanation. In addition, the board of review submitted copies of printouts for 8 suggested comparables. They were improved with two-story or three-story, building with varying uses. The improvements were either apartment buildings or mixed-use buildings. They range: in units from three to six; in age from 34 to 82 years; in size from 2,887 to 5,447 square feet of building area; and in improvement assessments from \$6.93 to \$10.46 per square foot.

At hearing, the board of review's representative rested on the equity comparable printouts submitted into evidence. Based on this evidence, the board of review requested confirmation of the subject's assessment.

After hearing the testimony and/or arguments as well as considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. *86 Ill.Admin.Code 1910.63(e)*. Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. *86 Ill.Admin.Code 1910.65(c)*. Having considered the evidence presented, the Board finds that the appellant has met the burden

of demonstrating that the subject is overvalued and that a reduction is warranted.

The Board finds that the best evidence of market value was the recent purchase price of the subject property. The un rebutted evidence demonstrated that the subject sold within a two-month period from the 2005 assessment date at issue or on November 17, 2004 for \$585,000. The Board further finds that this sale was an arm's length transaction.

As to the appellant's ancillary issues, the Board finds the appellant's assertion of vacancy unpersuasive. The appellant failed to submit any market data in support of the assertion that a 14% vacancy resulted in a diminished market value.

Further, the Board finds the appellant's argument that the subject's assessment is excessive when applying an income approach based on the subject's actual income and expenses unconvincing and not supported by evidence in the record. In Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970), the court stated:

It is the value of the "tract or lot of real property" property which is assessed, rather than the value of the interest presently held. . . [R]ental income may of course be a relevant factor. However, it cannot be the controlling factor, particularly where it is admittedly misleading as to the fair cash value of the property involved. . . [E]arning capacity is properly regarded as the most significant element in arriving at "fair cash value". . . Many factors may prevent a property owner from realizing an income from property, which accurately reflects its true earning capacity; but it is the capacity for earning income, rather than the income actually derived, which reflects "fair cash value" for taxation purposes." Springfield Marine Bank v. Property Tax Appeal Board 44 Ill.2d 428 at 430-431.

Actual expenses and income can be useful when shown that they are reflective of the market. The appellant did not demonstrate that the subject's actual income and expenses were reflective of the market. To demonstrate or estimate the subject's market value using an income approach, as the appellant attempted, one must establish through the use of market data the market rent, vacancy and collection losses, and expenses to arrive at a net operating income. Further, the appellant must establish through the use of market data a capitalization rate to convert the net income into an estimate of market value. The appellant failed to follow this procedure in developing the income approach to value; therefore, the Board gives this argument no weight.

As a result of this analysis, the Board finds the appellant has not adequately demonstrated that the subject dwelling was inequitably assessed by clear and convincing evidence and a reduction is not warranted on this issue.

On the basis of this analysis, the Board finds that the subject had a fair market value of \$585,000 as of the 2005 assessment date at issue. Since fair market value has been established, the Department of Revenue median level of assessment for Cook County class 2, residential property of 9.77% for tax year 2005 shall apply to this subject property.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Frank A. Huff

Member

Mario M. Louie

Member

Shawn P. Lerski

Member

DISSENTING: _____

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: March 18, 2011

Allen Castrovillari

Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing

complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.